



Health Care Reform Update

What You Need to Know Now



Health Care Reform Update

Banyan Consulting LLC is pleased to present our new Health Care Reform series.

Over the next months and years, employers will be faced with numerous changes, many of which require regulatory clarification. We'll use this venue to keep you up to date, and on target with decisions that affect your plans.

What You Need to Know Now About: Lifetime and Annual Limits

The Patient Protection and Affordable Care Act ("Affordable Care Act") signed into law on 03/23/2010 includes changes to any limits on the benefit amount payable on a per participant basis by an employer-sponsored group health plan. These provisions take effect on the first day of the first plan year following 9/23/2010. Lifetime limits on a per participant basis will be prohibited. Annual limits on a per participant basis will still be permitted on a restricted basis until 2014 when those, too, are prohibited.

1. Does the health care reform provision on Lifetime and Annual Limits apply to "grandfathered" health plans?

Yes, this provision applies to both grandfathered and non-grandfathered health plans. Also, your plan's funding arrangement, fully-insured or self-funded, does not impact your requirement to comply.

2. Currently, my employer-sponsored group health plan has a \$1,000,000 lifetime maximum. What do I need to do in order to be compliant?

Effective with the first day of your next new plan year after 9/23/2010, you must remove the \$1,000,000 lifetime maximum and replace it with an unlimited lifetime maximum.

You will also need to determine if there has been any plan participants who had reached the \$1,000,000 lifetime maximum and were dropped by the plan. You

will need to contact them, alert them of the new unlimited lifetime maximum, and offer them the opportunity to re-enroll into the health plan effective on the first day of your next new plan year after 9/23/2010.

3. Do the lifetime and annual maximum changes apply only to in-network providers?

The Interim Final Regulations issued by the Department of Labor on 6/23/2010 are not entirely clear on this subject; however, the interpretation of the regulations is that there is no distinction for network participation. The lifetime and annual limits are on a per participant basis and provider network affiliation does not factor into the reform provision.

4. I am the plan sponsor of a self-funded employer-based group health plan with a \$1,000,000 per participant lifetime maximum. I have purchased a stop-loss reinsurance contract with a \$1,000,000 per participant lifetime maximum. What are my options?

One option is you could continue with the \$1,000,000 per participant stop-loss reinsurance contract and assume the risk of any health plan payments on a participant in excess of \$1,000,000.

A safer option would be to increase the stop-loss reinsurance coverage amount on your contract. Stop-loss carriers are offering and pricing contracts with unlimited lifetime maximums. Of course there is additional premium expense in doing this and the question you will need to answer is your level of risk tolerance.

Please contact a member of your Banyan Consulting team before making any changes to your stop-loss reinsurance contract.

5. What are the restrictions on annual limits?

Effective in 2014, annual limits on “essential health benefits” will be prohibited. Until that time, a health plan can impose annual limits on essential health benefits with some restrictions. The DOL-issued Interim Final Regulations established a three-year “phase-in” period.

For Plan Years Renewing:	Annual Limit Minimum
9/23/2010 - 9/22/2011	\$750,000
9/23/2011 - 9/22/2012	\$1,250,000
9/23/2012 - 9/22/2013	\$2,000,000
9/23/2013 and beyond	Unlimited

6. What are “essential health benefits”?

Essential health benefits are vaguely defined in Section 1302(b) of the Affordable Care Act. At the time the Act was signed into law on 3/23/2010, this section stated that the Secretary of Health and Human Services would need to define the services considered essential. However, the section did list the major categories of:

- Ambulatory Patient Services
- Emergency Services
- Hospitalization
- Maternity & Newborn care
- Mental Health & Substance Abuse disorder services including behavioral health treatment
- Prescription Drugs
- Rehabilitative & habilitative services
- Laboratory services
- Preventive & Wellness services and chronic disease management
- Pediatric services, including oral and vision care

7. I am the plan sponsor of an employer-based health plan that limits chiropractic care to \$5,000 in benefits on an annual basis. Can I still limit chiropractic services like this and be in compliance?

Chiropractic services would, most likely, fall under the category of rehabilitative & habilitative services and be considered an essential health benefit. As a result, limiting chiropractic services to a maximum of \$5,000 on an annual basis would, most likely, not be considered compliant. Adding to the confusion is the difference of opinions by insurance companies of what they interpret as benefits considered “essential health benefits”.

8. For the plan I sponsor I do not have an annual dollar limit on chiropractic services but instead limit the number of visits to 36 per plan year. Can I still limit chiropractic services like this and be in compliance?

The Affordable Care Act and the DOL-issued regulations are quite clear on annual limits based on dollar amounts but are silent on non-dollar limits such as number of services/visits. Based on this silence, the assumption is that limits on the number of services/visits are still permitted.

The regulations are also silent on whether a plan sponsor who currently has an annual dollar limit but does not have limits on the number of services/visits can decide to add an annual service or visit limits while eliminating the annual dollar limit. We will provide updates as additional guidance is released.

9. Do the new regulations on Lifetime and Annual limits impact Flexible Spending Accounts (FSAs), Health Savings Accounts (HSAs) or Health Reimbursement Accounts (HRAs)?

No, FSAs are exempted from the restriction on annual limits and HSAs and HRAs are only limited by the rules governing the underlying health plan. More guidance is still needed from the DOL in regards to “stand alone” HRAs that are not linked to an underlying health plan.

10. What do I need to do now?

- If your health plan currently has a lifetime limit, you will need to remove it at the start of your next plan year after 09/23/2010.
- If your health plan is self-funded and you have a stop-loss reinsurance contract, you should review the contract provisions to determine if adjustments are needed.
- You will need to review your health plan(s) for any annual limits that are currently in place and determine if those limits are compliant.
- You will also need to “prominently” display the following DOL approved language in all of your open or new enrollment materials. You will also want to use the following language to update your Plan Document and Summary Plan Description.

The lifetime limit on the dollar value of benefits under [insert name of group health plan or health insurance issuer] no longer applies. Individuals whose coverage ended by reason of reaching a lifetime limit under the plan are eligible to enroll in the plan. Individuals have 30 days from the date of this notice to request enrollment. For more information contact the [insert plan administrator or issuer] at [insert contact information].

If you have any questions on this health care reform provision, please contact a member of your Banyan Consulting team.